

REMARKS

Claims 1-3, 5-12, 14-20 are pending.

Prior Art Rejections:

In responding to the Examiner's prior art rejections, Applicant here only justifies the patentability of the independent claims (claim 1, 12, and 18). As the Examiner will appreciate, should these independent claims be patentable over the prior art, narrower dependent claims would also necessarily be patentable. Accordingly, Applicant does not separately discuss the patentability of the dependent claims, although it reserves the right to do so at a later time if necessary.

Claims 1, 12, and 18 have been rejected as obvious (35 U.S.C. § 103) by USP 6,240,316 ("Richmond") in view of USP 6,195,585 ("Karunasiri").

Claims 1, 12, and 18 have been amended to include essentially the limitations of claims 4 and 13 (now canceled). As such, claims 1, 12, and 18 now recite:

"wherein the electronic subassembly measures a . . . voltage during recharging of the rechargeable power source via an external charging field, and transmits the measured voltage to one of the at least one external devices, wherein the measured voltage is measured when no stimulation is being provided by the electronic subassembly."

In the Final Office action dated January 8, 2007, the Examiner considered the above-highlighted limitation from claims 4 and 13 to be disclosed in Karunasiri. Specifically, the Examiner cited to column 7, ll. 1-4 of Karunasiri, which the Examiner considered to disclose "measuring the voltage when no stimulation pulse is being provided by the electronic assembly." Office Action pg. 6, ¶ 8.

Applicant disagrees. Especially when the cited lines from Karunasiri are read in context, it is clear that Karunasiri discloses making measurements only during periods of actual stimulation:

"In accordance with the teachings of the present invention, other information, in addition to the voltages within the ICS 12, may be monitored and telemetered back to the WP 16 or PC attached to the WP 16. . . . For example, a stapedius response detected through a stapedius electrode *in response to an applied stimulus of a known magnitude could be used to guide the adjustment of the*

level (magnitude) of the next applied stimulus. In this manner, the *applied stimuli may be dynamically set to an appropriate level in order to elicit a desired stapedius response.* Such other information may thus be used to provide feedback information to the processor circuits within the WP 16, or elsewhere (e.g., within the ICS processor 46), so that appropriate adjustments can be made, e.g., to *dynamically adjust the amplitude of the stimulus signal that is to be applied to a given patient.* Further, such information may provide useful feedback during a fitting session when the ICS is first implanted within a patient, or when adjustments are made thereto after implant, so that the patient is able to obtain maximum benefit from the operation of the system. . . .

Karunasiri, col. 6, l. 50 to col. 7, l. 7.

Thus, the entirety of the paragraph cited by the Examiner reveals that Karunasiri's measurements occur "dynamically," i.e., during an "applied stimulus."

Moreover, and addressing the specific portion of this paragraph cited by the Examiner, there is nothing inconsistent with the idea that stimulation is issued "during a fitting session when the ICS is first implanted within a patient, or when adjustments are made thereto after implant, so that the patient is able to obtain maximum benefit from the operation of the system." Col. 7, ll. 1-4. Such adjustments made during a "fitting session" would logically occur when the implant was sending out meaningful stimulation: without stimulation, how is the patient to know whether he or she is obtaining "maximum benefit from the operation of the system"? Once again, that actual stimulation is used during fitting in Karunasiri is further supported when the preceding sentences in the paragraph—those discussing measurements during applied stimulus—are considered.

In short, the evidence undermines the Examiner's characterization of the disclosure of Karunasiri.

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Based on the above remarks, Applicant respectfully submits that pending claims 1-3, 5-12, 14-20 are allowable, and requests that a Notice of Allowance issue for these claims.

Respectfully submitted,

/ TGL /

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